

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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THE INTERCEPT MEDIA, INC.,	:
Plaintiff,	Case No. 1:24-cv-01515-JSR-HJR
v.	:
OPENAI, INC., OPENAI GP, LLC,	:
OPENAI, LLC, OPENAI OPCO LLC,	:
OPENAI GLOBAL LLC, OAI	:
CORPORATION, LLC, OPENAI	:
HOLDINGS, LLC, and MICROSOFT	:
CORPORATION,	:
Defendants.	:
	X

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**OPENAI DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF MOTION TO DISMISS**

Defendants OpenAI, Inc., OpenAI GP, L.L.C., OpenAI, L.L.C., OpenAI OpCo, L.L.C., OpenAI Global, L.L.C., OAI Corporation, L.L.C., and OpenAI Holdings, L.L.C. (collectively, the “OpenAI Defendants”), by and through counsel, respectfully submit this Notice of Supplemental Authority to apprise the Court of a recent order that further supports OpenAI’s pending Motion to Dismiss (Dkt. 52).

In *Raw Story Media, et al. v. OpenAI, Inc., et al.*, No. 24-cv-01514 (S.D.N.Y.) (McMahon, J.), plaintiffs alleged that the OpenAI Defendants violated Section 1202 of the Digital Millennium Copyright Act by “creat[ing] copies of Plaintiffs’ works of journalism with [certain CMI] removed and includ[ing] them in training sets used to train ChatGPT.” See Complaint, *Raw Story Media*, No. 24-cv-01514, Dkt. 1 ¶¶ 49–51 (attached hereto as Exhibit 1). On November 7, 2024, the United States District Court for the Southern District of New York dismissed the complaint in its entirety for lack of subject matter jurisdiction. See Order, *Raw Story Media*, No.

24-cv-01514, Dkt. 117 (“MTD Order”) (attached hereto as Exhibit 2); *see also id.* at 9–10 (inviting plaintiffs to “explain[] [] why [any] proposed amendment would not be futile” notwithstanding the Court’s “skeptic[ism] about Plaintiffs’ ability to allege a cognizable injury”). The Court held, *inter alia*, that (1) plaintiffs had failed to “allege that a copy of their work from which the CMI has been removed has been disseminated by ChatGPT,” *id.* at 6; and (2) plaintiffs had “not plausibly alleged that there is a substantial risk that the *current* version of ChatGPT will generate a response plagiarizing one of *Plaintiffs’ articles*,” *id.* at 9 (internal citation marks omitted) (emphasis in original). In so doing, the Court stated that it was “not convinced that the mere removal of identifying information from a copyrighted work—absent dissemination—has *any* historical or common-law analogue.” *Id.* at 6–7 (emphasis in original). The MTD Order addresses issues discussed at the recent November 1, 2024 hearing before this Court on the pending motions to dismiss filed by the OpenAI Defendants and Microsoft. *See* Tr. of Oral Arg. at 3:13–13:18, 20:19–23:4 (attached hereto as Exhibit 3).

Dated: November 11, 2024

Respectfully Submitted,

By: /s/ Joseph C. Gratz

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\* All parties whose electronic signatures are included herein have consented to the filing of this document in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.